

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

LC2010-127322-001 DT

08/16/2011

COMMISSIONER MYRA HARRIS

CLERK OF THE COURT

H. Beal

Deputy

STATE OF ARIZONA

ANDREA L KEVER

v.

VERONICA ROME HOLLOWELL (001)

VERONICA ROME HOLLOWELL  
411 E INDIAN SCHOOL RD #3068  
BLDG 9  
PHOENIX AZ 85012

REMAND DESK-LCA-CCC  
WEST MCDOWELL JUSTICE COURT

RECORD APPEAL RULING / REMAND

**Lower Court Case No. JC2010-127322**

Defendant Appellant Veronica Rome Hollowell (Defendant) was convicted in the West McDowell Justice Court of Interference with Judicial Proceedings. Defendant contends the trial court erred. For the reasons stated below, the court affirms the trial court's judgment and sentence imposed.

**I. FACTUAL BACKGROUND.**

Defendant was charged with six counts of interference with judicial proceedings because Defendant contacted the victim after the victim obtained an Injunction Against Harassment against Defendant. The offenses occurred on March 30, 2010, March 31, 2010, April 5, 2010, and April 8, 2010. All of the complaints were in relation to an Injunction Against Harassment issued against Defendant. Defendant's daughter is the victim's step-child.

The trial court held a trial on February 10, 2011. At trial, Deputy Lopez testified about serving Defendant with the Injunction Against Harassment on March 8, 2010.<sup>1</sup> The victim, Jeannine Sevree, testified she filed an order of protection against Defendant because she received text messaged death threats on her husband's cell phone.<sup>2</sup> She stated the order prohibited all contact including telephone calls.<sup>3</sup> The victim testified she received a phone call on March 30,

---

<sup>1</sup> Trial Transcript for February 20, [sic] 2011, bench trial, p. 16, ll. 16-17; p. 18, ll. 4-19.

<sup>2</sup> *Id.* at p. 24, ll. 4-8. The State and witnesses referred to the order as both an Order of Protection and an Injunction Against Harassment.

<sup>3</sup> *Id.* at p. 24, ll. 16-22.

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

LC2010-127322-001 DT

08/16/2011

2010, from Defendant which she let go to voice mail. The message talked about Defendant putting lotion in a diaper bag and chastised victim for putting hair spray on the hair of Defendant's daughter.<sup>4</sup> Ms. Sevree testified about the subject matter of the other phone calls, which dealt with issues involving Defendant's daughter.<sup>5</sup> The victim also said the final phone call related to the victim allegedly contacting Defendant's mother and how no one liked the victim.<sup>6</sup>

Officer Ramirez and Victoria Leswick testified about the police investigation. On cross-examination, Defendant asked Officer Ramirez how the officer identified her as the subject from the recording of the message(s).<sup>7</sup> Ms. Leswick stated she had a telephone interview with Defendant where Defendant admitted making telephone calls to victim's husband but also said she made two specific calls to victim about Defendant's daughter.<sup>8</sup> According to Ms. Leswick, Defendant stated the phone calls were about hair spray in the child's hair. Ms. Leswick identified the phone calls as occurring in March<sup>9</sup> but did not include specific dates. Ms. Leswick also stated the voice messages matched Defendant's voice in court as well as on the recording Ms. Leswick made of the conversation with Defendant.<sup>10</sup>

Defendant's mother testified and stated she had access to the phone records for Defendant's phone and Defendant's phone records do not show any telephone calls to victim's telephone number.<sup>11</sup> She also stated Defendant did not know the victim's phone number as far as she knew,<sup>12</sup> and the telephone calls could not have occurred because there was no showing of the calls on the telephone record [statement].<sup>13</sup>

Defendant testified on her own behalf and denied ever (1) making threats on victim's life<sup>14</sup> and (2) making phone calls directly to victim.<sup>15</sup> Defendant also denied speaking with Ms. Leswick<sup>16</sup> and stated she did not know victim's telephone number.<sup>17</sup> She did admit to knowing the telephone number for victim's life partner.<sup>18</sup> Defendant was convicted, fined, and sentenced to 3 years supervised probation.

---

<sup>4</sup> *Id.* at p. 26, ll. 23–25.

<sup>5</sup> *Id.* at p. 27, ll. 7–25; p. 28, ll. 1–24.

<sup>6</sup> *Id.* at p. 29, ll. 1–10.

<sup>7</sup> *Id.* at p. 35, ll. 9–25; pp 36–38.

<sup>8</sup> *Id.* at p. 44, ll. 10–13; p. 45, ll. 22–25.

<sup>9</sup> *Id.* at p. 45, ll. 1–4.

<sup>10</sup> *Id.* at p. 47, ll. 11–15.

<sup>11</sup> *Id.* at p. 54, ll. 16–25.

<sup>12</sup> *Id.* at p. 66, ll. 23–25; p. 67, l. 1–2.

<sup>13</sup> *Id.* at p. 69, ll. 1–25; p. 70, ll. 1–23.

<sup>14</sup> *Id.* at p. 74, ll. 2–3.

<sup>15</sup> *Id.* at p. 75, ll. 15–18; p. 76, ll. 13–14.

<sup>16</sup> *Id.* at p. 78, l. 8; p. 85, ll. 2–5 and 13.

<sup>17</sup> *Id.* at p. 78, ll. 9–10; p. 79, l. 25; p. 80, ll. 1–2; p. 87, l. 12.

<sup>18</sup> *Id.* at p. 80, ll. 2–4.

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

LC2010-127322-001 DT

08/16/2011

Defendant filed a timely appeal. Defendant argues the trial court erred in admitting/ utilizing tape recordings without properly identifying the speaker and alleges the tapes lacked authenticity. In addition, the Defendant argues about void and prohibited marriages. Because the issue of gay marriage is inapposite in this matter, this Court will ignore those parts of Defendant's brief that do not relate to the charges before the trial court. The State provided a minimal response arguing Defendant's appeal is (1) a collection of "incoherent ramblings" and (2) violates of Rule 9.5 Superior Court Rules of Appellate Procedure—Criminal (SCRAP—Crim.) This Court has jurisdiction pursuant to ARIZONA CONSTITUTION Art. 6, § 16, and A.R.S. § 12-124(A).

II. ISSUES:

*A. Did the Defendant Properly Present Her Issues on Appeal.*

Appellant has submitted an appeal challenging the sufficiency of the evidence, but does not reference the record, or cite any relevant legal authority. Therefore, Appellant's appellate memorandum fails to comply with Rule 8(a) (3), Super. Ct. R. App. P.—Crim. which states:

Memoranda shall include a short statement of the facts with reference to the record, a concise argument setting forth the legal issues presented with citation of authority, and a conclusion stating the precise remedy sought on appeal.

Defendant provides no citations to the record and no relevant legal authority. Instead, she asserts the tape recordings were not authenticated. This Court notes, however, that tape recordings were never introduced at trial. The State presented witnesses who testified about their investigations. Defendant had the opportunity to cross-examine these witnesses and availed herself of this opportunity. Consequently, her argument about authenticating tape recordings lacks relevance and Defendant failed to explain how or why the court erred. Because Defendant failed to cite to the record or present legal authority supporting her claim, this Court finds the Appellant failed to properly present her issues for appeal.

It is not enough to merely mention an argument. Briefs must present significant arguments supported by authority that set forth the appellant's position on the issues raised. *See State v. Carver*, 160 Ariz. 167, 175, 771 P.2d 1382, 1390 (1989). Furthermore, unless there is fundamental error, allegations that lack specificity or reference to the record do not warrant consideration on appeal. *State v. Cookus*, 115 Ariz. 99, 104, 563 P.2d 898, 903 (1977).

*B. Did the State Present Sufficient Evidence that Defendant was Guilty.*

This Court must determine if the State provided sufficient evidence to support Defendant's conviction. In addressing the question of sufficiency of the evidence, the Arizona Supreme Court said the following:

....

....

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

LC2010-127322-001 DT

08/16/2011

We review a sufficiency of the evidence claim by determining “whether substantial evidence supports the jury’s finding, viewing the facts in the light most favorable to sustaining the jury verdict.” Substantial evidence is proof that “reasonable persons could accept as adequate . . . to support a conclusion of defendant’s guilt beyond a reasonable doubt.” We resolve any conflicting evidence “in favor of sustaining the verdict.”

*State v. Bearup*, 221 Ariz. 163, 211 P.3d 684 ¶ 16 (2009) (citations omitted). The victim testified she received phone calls from Defendant after the protective order was in place. Ms. Leswick, the investigator, stated she identified Defendant’s voice as the voice with whom she had a conversation about the incidents. Officer Ramirez established Defendant was served with the protective order. Contrariwise, Defendant (1) asserted her evidence contradicted the evidence provided by the State; (2) denied responsibility for the charged offense; and (3) claimed she did not make the six telephone calls as she did not know the victim’s telephone number. The trial court was presented with conflicting evidence about the telephone calls.

In addressing the correct standard an appellate court should use where there is conflicting testimony the Arizona Supreme Court has said the following:

Something is discretionary because it is based on an assessment of conflicting procedural, factual or equitable considerations which vary from case to case and which can be better determined or resolved by the trial judge, who has a more immediate grasp of all the facts of the case, an opportunity to see the parties, lawyers and witnesses, and who can better assess the impact of what occurs before him. Where a decision is made on that basis, it is truly discretionary and we will not substitute our judgment for that of the trial judge; we will not second-guess. Where, however, the facts or inferences from them are not in dispute and where there are few or no conflicting procedural, factual or equitable considerations, the resolution of the question is one of law or logic. Then it is our final responsibility to determine law and policy and it becomes our duty to “look over the shoulder” of the trial judge and, if appropriate, substitute our judgment for his or hers.

*State v. Chapple*, 135 Ariz. 281, 297 n.18, 660 P.2d 1208, 1224 n.18 (1983) (citation omitted). Because this determination is an “assessment of conflicting procedural, factual or equitable considerations which vary from case to case” rather than a “question . . . of law or logic”, it is not appropriate for this Court to “substitute [its] judgment for that of the trial judge.”

In making her claims Defendant misunderstands the function of appellate review. The appellate court is not a second bite at the apple. It is not a new chance to retry the case. Instead, the appellate court reviews the trial court’s action to determine if the trial court erred. An appellate court usually does not review the case de novo and does not re-weigh the evidence to determine if it would have come to the same conclusion as the original trier of fact. Instead, the

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

LC2010-127322-001 DT

08/16/2011

appellate court is to (1) review the evidence in a light most favorable to sustaining a judgment, *State v. Guerra*, 161 Ariz. 289, 778 P.2d 1185 (1989), and (2) examine the record to determine whether substantial evidence exists to support the action of the lower court.

When viewed in the light most favorable to upholding the trial court's determination—as the appellate court must do—the facts demonstrate—at a minimum—(1) the victim had a valid protective order; (2) Defendant was the defendant for the protective order; (3) Defendant was ordered to have no contact with victim; and (4) Defendant made telephone calls to the victim after she was served with the protective order. These facts substantiate the trial court's decision. Thus, after a careful review of the record, this Court finds there is substantial evidence to support the action of the lower court.

III. CONCLUSION.

Based on the foregoing, this Court concludes the West McDowell Justice Court did not err when it found Defendant guilty of the charged offenses.

**IT IS THEREFORE ORDERED** affirming the judgment and sentence of the West McDowell Justice Court.

**IT IS FURTHER ORDERED** remanding this matter to the West McDowell Justice Court for all further appropriate proceedings.

**IT IS FURTHER ORDERED** signing this minute entry as a formal Order of the Court.

---

THE HON. MYRA HARRIS  
JUDICIAL OFFICER OF THE SUPERIOR COURT

08180111126